IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

Bail Appl..No. 4744 of 2007()

(CRMP.2141/2007 of SESSIONS COURT, PALAKKAD
CRIME NO. 270/2007 of VADAKKENCHERRY POLICE STATION)

.....

: PETITIONER/1ST ACCUSED

KANNAN, SON OF KRISHNAN,
CHERATTUTHODY HOUSE, MOOLENCODE,
KIZHAKKENCHERRY.

BY ADV. SRI.S.M.PREM

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

= = = = = = = = = = = = = =

B.A.No. 4744 of 2007

= = = = = = = = = = = = = =

Dated this the 6th day of August, 2007

ORDER

Application for anticipatory bail. The petitioner is the 3rd accused. He faces allegations under the Arms Act. It is alleged that on receipt of a reliable information, when the Police party went to the scene of occurrence, the petitioner herein who allegedly has questionable criminal past took to his heels and could not be apprehended. He was allegedly involved in an attempt to hand over an unlicensed pistol to accused Nos. 1 and 2, who were arrested at that moment. Co-accused 1 and 2 were arrested on 03.06.07. They were enlarged on bail as per order dated 28.6.07 in B.A.No.3895/07. The petitioner has not been apprehended so far. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Totally false allegations are raised, he submits.

2. The learned Public Prosecutor opposes the application. The petitioner is named in the FIR itself indicating the complicity of the petitioner. There is absolutely no circumstance justifying invocation of the extraordinary equitable discretion under Section 438, submits the learned Public Prosecutor.

3. Having considered all the relevant inputs, I am persuaded to agree that there is merit in the opposition by the learned Public Prosecutor. There are no features suggesting the need for invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is an eminently fit case where the petitioner must appear before the learned Magistrate and seek bail in the regular and ordinary course. I have no reason to assume that the learned Magistrate would not consider the application for regular bail on merits, in accordance with law and expeditiously. Every court must do the same.

4. In the result, this petition is dismissed. Needless to say, if the petitioner appears before the Investigating Officer or the learned Magistrate and apply for bail,after giving sufficient prior notice to the Prosecutor, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE